

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MAURICE D. AHL
2285 E. Spruce Ave, #203
Fresno, CA 93720

Registered Nurse License No. 696968

Respondent.

Case No. 2012-408

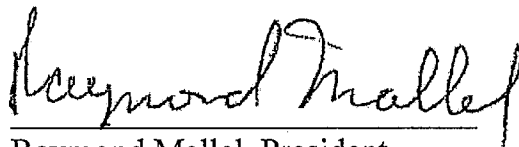
OAH No. 2012020794

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on December 28, 2012.

IT IS SO ORDERED this 29th day of November, 2012.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MAURICE D. AHL
Fresno, CA 93710

Registered Nurse License No. 696968

Respondent.

Case No. 2012-408

OAH No. 2012020794

PROPOSED DECISION

This matter was heard before Karen J. Brandt, Administrative Law Judge, Office of Administrative Hearings, State of California, on August 13, 2012, in Sacramento, California.

Anahita S. Crawford, Deputy Attorney General, represented Louise R. Bailey, M.Ed., R.N. (complainant), Executive Officer, Board of Registered Nursing (Board), Department of Consumer Affairs.

Jeffrey S. Kravitz, Attorney at Law, represented Maurice D. Ahl (respondent), who was present.

Evidence was received, the record was closed, and the matter was submitted for decision on August 13, 2012.

FACTUAL FINDINGS

1. On February 8, 2007, the Board issued Registered Nurse License Number 696968 (license) to respondent. Respondent's license was in full force and effect at all times relevant to the charges brought in this matter, and will expire on September 30, 2012, unless renewed or revoked. Complainant seeks to discipline respondent's license based upon his convictions described below.

Convictions

2. On November 7, 2007, in the Fresno County Superior Court, on a plea of nolo contendere, respondent was convicted of peeking, in violation of Penal Code section 647,

subdivision (i).¹ Respondent was placed on probation for three years. He was ordered to serve 180 days in jail, all but five of which were suspended. He was also ordered to pay fines and fees, and to participate in a 12-week anger management program.

3. The incident underlying respondent's 2007 peeking conviction occurred on May 24, 2007. According to the police report,² respondent was observed looking through the bedroom windows of the male and female victims. The victims called the police. When the police officer arrived, he also observed respondent looking in the victims' windows. When respondent saw the police, he "took off running," with a police officer chasing him. When respondent started getting into a vehicle, the police officer yelled, "Stop, Fresno P.D." Respondent looked at the police officer, shut the vehicle door, and reached toward his waistband area. The police officer yelled, "get your hands up or I will shoot." Respondent turned and ran over a brick wall. The police officer had two units set up and Sky Watch was overhead. The police officer heard the bushes moving just over the wall from where he was standing. Several police units announced over their P.A.'s that the Fresno P.D. was there and respondent should come out "with his hands up." The police officer jumped over the fence and located respondent sitting down on the ground behind the bushes. Respondent was born on August 4, 1980. He was 26 years old at the time of this incident.

4. At the hearing, respondent described the incident underlying his 2007 peeking conviction as follows: Respondent was born with a laterally deviated left eye. He has had multiple operations on that eye, which is blind. He has to wear protective glasses to safeguard his right eye. According to respondent, he was in a bar when the victim started to make fun of his eye. He became "offended," "challenged," and "upset," but left the bar because he was "outnumbered." Thereafter, he went to the victim's home with the intention of "calling him out" to fight. Respondent looked in the window of the victim's home, hoping to see the victim. When the victim came out with "his buddies," respondent ran off.

¹ Penal Code section 647, subdivision (i), provides:

Except as provided in subdivision (l), every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

[¶] ... [¶]

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.

² The facts underlying the 2007 incident were taken from the police report, which was admitted into evidence pursuant to *Lake v. Reed* (1997) 16 Cal.4th 448. Neither the police officers nor the victims testified at the hearing.

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According to respondent, he did not see the police when they initially came onto the property. Respondent testified that when he realized he was being chased, he became scared and "took off." He became aware that the police were chasing him when he heard the helicopter overhead, but he was so scared, he "could not move."

5. Respondent successfully completed the anger management program ordered by the court. He also completed the court-ordered Adult Offender Work program.

6. On May 25, 2011, in the Fresno County Superior Court, respondent, upon a plea of no contest, was convicted of peeking in violation of Penal Code section 647, subdivision (i). Respondent was placed on probation for three years. He was ordered to pay fines and fees, and to complete 100 hours of community service through Hands On Central California. He was also ordered to have no contact with the 19-year-old female victim.

7. The incident underlying respondent's 2011 peeking conviction occurred on February 14, 2010.³ The 19-year-old female victim reported to police that respondent, her next-door neighbor, was outside "looking through her window." The victim's mother called to respondent, who went into his apartment.

8. Respondent explained the circumstances underlying his 2011 peeking conviction as follows: He was visiting his girlfriend and son at his girlfriend's apartment on Valentine's Day. He intended to surprise his girlfriend with a Valentine's breakfast at work. While he was getting his son ready, he heard a noise in the back of the residence where his vehicle was parked. He went outside and confronted a man. Respondent, believing that the man was trying to steal his registration tags, yelled, "what are you doing to my vehicle." The man started to run and respondent pursued him. The man ran around the corner to the neighbor's residence. Respondent "slowed down cautiously" because he could not see well in the fog. When respondent looked around the corner, a woman in her late 40's or 50's looked out her window, and began screaming at him. Respondent "took off in the opposite direction," went back into his girlfriend's apartment, and continued getting his son ready. He then went to his girlfriend's work to take her breakfast and coffee. Respondent was later arrested.

Education and Employment

9. Respondent is a 1999 graduate of Mount Eden High School in Hayward, California. He submitted letters, which indicated that he participated in sports and various volunteer activities, and graduated with a 3.89 GPA.

³ The facts underlying the 2010 incident were taken from the police report, which was admitted into evidence pursuant to *Lake v. Reed*. Neither the police officers nor the victim testified at the hearing.

10. In 2003, respondent was certified as an Emergency Medical Technician. In 2004, respondent graduated with honors from Fresno State University, with a Bachelor of Science degree in Community Health. In December 2006, he graduated with honors from Fresno City College's Registered Nursing program.

11. In 2003, respondent was employed as a member of the lift ambulation team and a patient-care assistant at Saint Agnes Hospital. In November 2004, he received a Certificate of Completion and Certification of Proficiency in Saint Agnes's Arrhythmia Analysis Course. Since 2007, respondent has been working as a Registered Nurse at Saint Agnes. In his 2012 performance evaluation, he was rated as "satisfactory"⁴ in Mission, Vision and Core Values; Support Each Other in Serving Our Patients and Communities; Communicate Openly, Respectfully and Directly; Be Accountable; Trust and Assume Goodness in Intentions; Be a Continuous Learner; and Demonstrate Initiative and Bias for Action. He was rated as "exceeds expectations"⁵ in Service Excellence, Be Fully Present, and Decision Making.

Rehabilitation

12. Melissa Plaster testified on respondent's behalf and submitted a letter of support. She has been a Registered Nurse at Saint Agnes for six years. During this time, she has worked alongside respondent as a co-worker. She considers respondent to be a "trusted partner" on the cardiovascular intervention team in the telemetry unit. According to Ms. Plaster, respondent "has in many ways exhibited exceptional noteworthy behavior on a professional level as well as on a personal basis." Ms. Plaster also reported that respondent's "thoughtfulness as a team member is exhibited by always assisting new and senior staff members with tasks and patient care." Ms. Plaster was aware of respondent's criminal convictions, but they did not change her opinion that respondent is an "exceptional nurse."

13. Respondent submitted letters in support, which were admitted as administrative hearsay, and have been considered to the extent permitted under Government Code section 11513, subdivision (d).⁶

⁴ The evaluation defines "satisfactory performance" as "Staff member consistently performs work at a satisfactory level. Continues to refine skills and learn from new experiences."

⁵ The evaluation defines "exceeds expectations" as "Staff Member consistently performs work at a high level and exceeds performance standards. Demonstrates initiative and independence in performing job responsibilities."

⁶ Government Code section 11513, subdivision (d), in relevant part, provides:

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a. Jon Furlow is a member of the lift ambulation team at Saint Agnes. He helped train respondent. He has known respondent for 10 years, and "worked side by side with him for seven of these years." During this time, respondent "always conducted himself professionally and has been caring towards patient needs." According to Mr. Furlow, respondent is a "great worker, punctual, and always willing to assist a coworker when necessary." Respondent discussed the incidents underlying his convictions with Mr. Furlow. Respondent was "very sorry and apologetic about the whole situation" and "completely takes responsibility."

b. Julie Buckley is a Registered Nurse. She has worked with respondent at Saint Agnes for the past six years. She was in a five-year relationship with respondent and they have a four-year-old son together. According to Ms. Buckley, respondent is an "excellent nurse with outstanding enthusiasm and energy." Respondent demonstrates "compassion and empathy on a consistent basis for his patients and their family members." He is "always courteous and goes above and beyond expectations to help staff." Ms. Buckley is aware of respondent's criminal convictions, but believes they are "out of his character" because he "has never had a moment of improper behavior" in his work environment. Respondent "has expressed remorse over the events and has sought counsel to improve himself as a man, a father, and a Registered Nurse."

c. Respondent's mother and stepfather also wrote letters in strong support of their son.

14. Michael D. Zimmerman, Ph.D., is a licensed Clinical Psychologist, Qualified Medical Examiner, and Forensic Psychologist. Between October 2010 and May 2011, Dr. Zimmerman treated respondent for a "stress disorder with anxiety and depression." Dr. Zimmerman performed a fitness for duty assessment on respondent and issued a report on August 9, 2012. In the report, Dr. Zimmerman discussed respondent's education and work history, and described his two peeking convictions. With regard to respondent's mental status, Dr. Zimmerman found that respondent's "thinking was clear and linear without indication of psychosis, loose associations, organic syndromes, or dementia." But Dr. Zimmerman noted that respondent's "[a]ffect was elevated and his mood anxious," and that his "[i]nsight into himself was partial."

Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

Dr. Zimmerman gave respondent two psychological tests: the Minnesota Multiphasic Personality Inventory-2 (MMPI-2) and the Millon Clinical Multiaxial Inventory-III (MCMI-III).

Respondent's scores on the Validity Scales of the MMPI-2 suggested that he approached the test in the "mild to moderately guarded manner typical of work functioning assessments." Respondent's scores on the Clinical Scales of the MMPI-2 "suggested the undetected presence of subclinical depression and anxiety, fueled primarily by feelings of dejection and rejection." According to Dr. Zimmerman, respondent may be "hypersensitive to signs of disrespect and over-reactive to signs of such treatment. Others with scores similar to [respondent's] were prone to low frustration tolerance. They tended to take action into their own hands without sufficient consideration of consequences."

Respondent's results on the Clinical Scale of the MCMI-III showed "moderate to severe self-esteem issues and underlying depression and anxiety. For others with scores similar to [respondent's], their distracting personal concerns diminished their capacity for ordinary stresses and responsibilities. They tended to feel overwhelmed and irritable."

Dr. Zimmerman reported that respondent "initiated weekly counseling on June 8, 2010, for help coping with current stressors in his life." From October 2010 through April 2011, respondent's "functioning was maintained with monthly supervision." His issues "were considered resolved and treatment was terminated at that time."

In assessing respondent's fitness for duty, Dr. Zimmerman found that respondent's explanations of his convictions were "consistent with the results of his psychological testing, that is, a tendency to over-react to perceived violations of his person or, by extension, his possessions." Dr. Zimmerman stated that respondent has a "history of poor, impulsive judgment in such circumstances." Dr. Zimmerman concluded that, during their 20 sessions, respondent:

presented as a serious minded young man, a valued member of the Saint Agnes Hospital Nursing staff, a loving father, and a conscientious provider for his child. He took the charges against him seriously, readily recognized the underlying psychological dynamics, and developed and implemented a plan to supersede action with judgment.

15. At the hearing, Dr. Zimmerman testified that respondent saw him after the incidents underlying his 2011 conviction, as required by the judge. According to Dr. Zimmerman, respondent's accounts of the criminal incidents appeared "truthful." He took "the situation seriously," and was "very concerned" about the impact on his license and complying with the court's order. Dr. Zimmerman found that respondent had problems with "judgment" and "impulse control," and was quick to feel offended and to take action. According to Dr. Zimmerman, respondent has made a "lot of improvement" and has learned to control his impulses. He has "successfully implemented" a plan of thinking first and acting later. As a result, he is not as likely to act now as he was in the past. Dr. Zimmerman

opined that respondent could continue to practice as a nurse without incident. But Dr. Zimmerman recommended that respondent receive more counseling to further address his anxiety issues.

Discussion

16. In California Code of Regulations, title 16, section 1445, subdivision (b), the Board has set forth criteria for evaluating the rehabilitation of a licensee who has been convicted of a crime.⁷

17. Respondent was convicted of peeking in 2007 and 2011. He has complied with the terms of his probation for both convictions. His probation for his 2011 conviction is not scheduled to end until May 2014. At the hearing, he expressed remorse for his conduct and took responsibility for his actions. He is helping his ex-girlfriend raise their child. He loves his work as a nurse. His performance evaluations were positive, and the testimony and letters in support were strong. There was no evidence that he has ever acted inappropriately with any patients in his care. He has received counseling for the psychological concerns raised by his convictions. His psychologist believes that he has responded well to the counseling and has made significant improvements in his impulse control.

18. The primary concern of the Board is protection of the public. The Board must have confidence that the nurses it licenses can be relied upon not to take advantage of or act inappropriately with patients in their care. Respondent's two peeking convictions in the past

⁷ California Code of Regulations, title 16, section 1445, subdivision (b), provides:

When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

five years raise concerns about whether allowing him to retain his license would place vulnerable patients in his care at risk. But when all the evidence is considered, particularly Dr. Zimmerman's opinion, it would be consistent with the public health, safety and welfare to allow respondent to retain his license under the probationary terms set forth below, including requirements that he undergo a mental health evaluation and continue to receive counseling.

Costs

19. Complainant has requested that respondent be ordered to pay costs incurred for investigation and enforcement in the total amount of \$2,460. At the hearing, complainant submitted a declaration of the Deputy Attorney General and a computer printout of the time spent by professional type. The costs requested by complainant for the legal work performed by the Attorney General's Office are reasonable and appropriate in light of the issues raised, the legal work performed, and the evidence presented in this matter.

LEGAL CONCLUSIONS

1. Pursuant to Business and Professions Code section 490, subdivision (a), the Board may discipline a license when the licensee has "has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued."

2. Pursuant to Business and Professions Code section 2761, subdivision (f), the Board may discipline the license of a licensee who has been convicted of "any offense substantially related to the qualifications, functions, and duties of a registered nurse." California Code of Regulations, title 16, section 1444, provides that a "conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare."

3. Respondent's two convictions for peeking evidence the present or potential unfitness of respondent to practice registered nursing in a manner consistent with the public health, safety, or welfare. Consequently, these convictions are substantially related to the qualifications, functions, and duties of a registered nurse under California Code of Regulations, title 16, section 1444. They therefore constitute cause to discipline respondent's license under Business and Professions Code sections 490, subdivision (a), and 2761, subdivision (f).

4. As set forth in Finding 18, when all the evidence is considered in light of the criteria set forth in California Code of Regulations, title 16, section 1445, subdivision (b), the public health, safety and welfare would be adequately protected by allowing respondent to retain his license under the probationary terms and conditions set forth below.

5. Pursuant to Business and Professions Code section 125.3, a licensee found to have violated a licensing act may be ordered to pay the reasonable costs of investigation and enforcement of a case. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of the costs sought pursuant to statutory provisions like Business and Professions Code section 125.3. These factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct.

As set forth in Finding 19, complainant seeks \$2,460 in costs. When all the *Zuckerman* factors are considered, this cost amount is reasonable. Respondent should be allowed to pay these costs over the term of his probation according to a payment plan acceptable to the Board.

ORDER

IT IS HEREBY ORDERED that Registered Nurse License Number 696968 issued to respondent Maurice D. Ahl is revoked. However, the revocation is stayed and respondent is placed on probation for five (5) years on the following conditions.

SEVERABILITY CLAUSE –

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. OBEY ALL LAWS - Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

CRIMINAL COURT ORDERS: If respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. COMPLY WITH THE BOARD'S PROBATION PROGRAM -

Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, respondent's license shall be fully restored.

3. REPORT IN PERSON - Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

4. RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE - Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when he resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where he has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing license during the term of probation.

5. SUBMIT WRITTEN REPORTS - Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he has a registered nurse license.

6. FUNCTION AS A REGISTERED NURSE - Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for six (6) consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

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The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for six (6) consecutive months or as determined by the Board.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7. EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS -

Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to his employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, respondent shall notify the Board in writing within seventy-two (72) hours after he obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. SUPERVISION - Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.

(d) Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by respondent with or without respondent present.

9. EMPLOYMENT LIMITATIONS - Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. COMPLETE A NURSING COURSE(S) - Respondent, at his own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to respondent after photocopying them for its records.

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11. COST RECOVERY - Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$2,460. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

12. VIOLATION OF PROBATION - If a respondent violates the conditions of his probation, the Board after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

13. LICENSE SURRENDER - During respondent's term of probation, if he ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, respondent may surrender his license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- (a) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- (b) One year for a license surrendered for a mental or physical illness.

14. MENTAL HEALTH EXAMINATION - Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine his capability to perform the duties of a registered nurse.

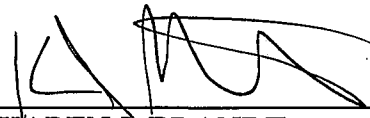
The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by respondent.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified respondent that a mental health determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted:

15. THERAPY OR COUNSELING PROGRAM - Respondent, at his expense, shall participate in an on-going counseling program until such time as the Board releases him from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

DATED: September 11, 2012



KAREN J. BRANDT
Administrative Law Judge
Office of Administrative Hearings

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Exhibit A

Accusation Case No. 2012-408

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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

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13 **MAURICE D. AHL,**
14 **aka MAURICE DWYANN AHL**
15 **438 East Shaw Avenue, Unit 151**
16 **Fresno, CA 93710**
17 **Registered Nurse License No. 696968**

A C C U S A T I O N

Respondent.

18 Complainant alleges:

PARTIES

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about February 8, 2007, the Board issued Registered Nurse License Number
23 696968 to Maurice D. Ahl, also known as Maurice Dwyann Ahl ("Respondent"). Respondent's
24 registered nurse license was in full force and effect at all times relevant to the charges brought
25 herein and will expire on September 30, 2012, unless renewed.

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4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof . . .

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

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1 8. California Code of Regulations, title 16, section 1444, states, in pertinent part:

2 A conviction or act shall be considered to be substantially related to the
3 qualifications, functions or duties of a registered nurse if to a substantial degree it
4 evidences the present or potential unfitness of a registered nurse to practice in a
5 manner consistent with the public health, safety, or welfare . . .

6 **COST RECOVERY**

7 9. Code section 125.3 provides, in pertinent part, that the Board may request the
8 administrative law judge to direct a licensee found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 **CAUSE FOR DISCIPLINE**

12 **(Criminal Convictions)**

13 10. Respondent is subject to disciplinary action pursuant to Code sections 2761,
14 subdivision (f), and 490, subdivision (a), in that he was convicted of crimes which are
15 substantially related to the qualifications, functions, and duties of a registered nurse, as follows:

16 a. On or about November 7, 2007, in the criminal proceeding titled *People v. Maurice*
17 *Dwyann Ahl* (Super. Ct. Fresno County, 2007, Case No. M07921800), Respondent pled nolo
18 contendere to violating Penal Code section 647, subdivision (i) (peeking, a misdemeanor). The
19 imposition of Respondent's sentence was suspended and Respondent was placed on probation for
20 3 years subject to certain conditions, including that Respondent obey all laws. Respondent served
21 5 days in jail. The circumstances of the crime are as follows: On or about May 24, 2007, A. K.
22 noticed a male subject (Respondent) looking in the bedroom window of her and S. C.'s apartment.
23 S. C. saw Respondent by the window and he and A. K. went outside. A. K. recognized
24 Respondent as she had seen him looking through her bedroom window on a previous occasion.
25 S. C. flagged down officers with the Fresno Police Department ("FPD"), who were in the area.
26 The officers recognized S. C. as they had responded to a call in December 2006 and had arrested
27 a subject (Respondent) for a violation of Penal Code section 647, subdivision (i). S. C. told the
28 officers that Respondent was the same person that had just looked through the window. Later, the
officers also observed Respondent looking in the window of the apartment. Respondent saw the

1 officers and began to run. One of the officers chased Respondent and yelled at him to stop, but
2 Respondent refused. Respondent evaded officers while the officer continued pursuing
3 Respondent. Several other FPD units were called in as well as Skywatch. Respondent was
4 eventually apprehended and taken into custody.

5 b. On or about May 25, 2010, in the criminal proceeding titled *People v. Maurice*
6 *Dwyann Ahl* (Super. Ct. Fresno County, 2010, Case No. 10M913760), Respondent pled no
7 contest to violating Penal Code section 647, subdivision (i) (peeking, a misdemeanor). On or
8 about May 25, 2011, Respondent was convicted on his plea and was placed on probation for 3
9 years. The circumstances of the crime are as follows: On or about February 14, 2010, C. C., a 19
10 year old female, had just taken a shower and had wrapped herself with a towel. After C. C.
11 entered her bedroom, she saw Respondent peeking through the blinds into her room. C. C.
12 walked to the closet door and hid behind it, then called for her mother. E. C. walked into C. C.'s
13 room, looked at the window, and saw Respondent peeking through the blinds. E.C. recognized
14 Respondent from a previous incident. This incident occurred while Respondent was on probation
15 for his conviction of November 7, 2007.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Board of Registered Nursing issue a decision:

19 1. Revoking or suspending Registered Nurse License Number 696968, issued to
20 Maurice D. Ahl, also known as Maurice Dwyann Ahl;

21 2. Ordering Maurice D. Ahl, also known as Maurice Dwyann Ahl, to pay the Board of
22 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
23 pursuant to Business and Professions Code section 125.3;

24 3. Taking such other and further action as deemed necessary and proper.

25 DATED: December 30, 2011

26 *for* *Louise R. Bailey*
27 LOUISE R. BAILEY, M.ED., RN
28 Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant